

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1088

Introduced by Assembly Member Fletcher

February 27, 2009

An act to amend Section 1048 of, and to repeal and add Section 1051 of, the Military and Veterans Code, *and* to add and repeal Article 11.3 (commencing with Section 18810) of Chapter 3 of Part 10.2 of Division 2 of, and to repeal Article 11.5 (commencing with Section 18825) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1088, as amended, Fletcher. Taxpayer contributions: ~~_____~~
California Veterans Fund.

Under existing law regulating the administration of personal income taxes and corporation taxes, individual taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds or accounts, including, among others, the Veterans' Quality of Life Fund. Existing law requires the expenditure of all moneys contributed to the fund, upon appropriation by the Legislature, for administrative costs and for distribution into the Morale, Welfare, and Recreation Fund for each of the veterans' homes, as provided.

This bill would repeal those provisions, and instead allow taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the ~~_____~~ *California Veterans Fund*, which would be created by this bill. However, the bill would provide that a voluntary contribution designation for this fund may not be added

on the tax return until another voluntary contribution designation is removed from that return.

This bill would, like the expenditure of all moneys contributed to the Veterans' Quality of Life Fund, require the expenditure of all moneys contributed to the ~~the~~ *California Veterans* Fund, upon appropriation by the Legislature, for administrative costs and for distribution into the Morale, Welfare, and Recreation Fund for each of the veterans' homes, as provided. This bill would require any funds remaining in the Veterans' Quality of Life Fund to be transferred to the ~~the~~ *California Veterans* Fund.

This bill would provide that these voluntary contribution provisions ~~would~~ be repealed on January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return. This bill would further provide that these provisions would be repealed for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000, or an adjusted amount for subsequent taxable years.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1048 of the Military and Veterans Code
- 2 is amended to read:
- 3 1048. (a) The Morale, Welfare, and Recreation Fund shall
- 4 include proceeds from the ~~the~~ *California Veterans* Fund,
- 5 operations of the Veterans' Home Exchange, revenue derived from
- 6 the issuance of prisoner-of-war special license plates pursuant to
- 7 Section 5101.5 of the Vehicle Code, all funds derived from golf
- 8 course green fees and range ball fees, all donations to the fund,
- 9 interest earned on invested funds, funds derived from the estates
- 10 of deceased members, and any other moneys or property described
- 11 in this chapter, including, but not limited to, moneys and properties
- 12 received by the home from estate assets located outside the home,
- 13 regardless of amount.
- 14 (b) The administrator shall prepare an itemized report that is
- 15 organized by category and accounts for all funds deposited into
- 16 the Morale, Welfare, and Recreation Fund and transmitted to the
- 17 Controller under Section 1047 during the previous fiscal year and

1 shall submit the report on or before August 20 of each year to all
2 of the following:

- 3 (1) The secretary.
- 4 (2) The fiscal committees of the Assembly and the Senate.
- 5 (3) The committees of the Assembly and the Senate that have
6 subject matter jurisdiction over veterans' affairs.
- 7 (4) The Veterans' Home Allied Council.

8 SEC. 2. Section 1051 of the Military and Veterans Code is
9 repealed.

10 SEC. 3. Section 1051 is added to the Military and Veterans
11 Code, to read:

12 1051. (a) There is hereby established in the State Treasury the
13 ~~—~~ *California Veterans* Fund to receive those amounts transferred
14 to the fund pursuant to Section 18811 of the Revenue and Taxation
15 Code.

16 (b) Any funds remaining in the Veterans' Quality of Life Fund,
17 as established by Section 2 of Chapter 143 of the Statutes of 2005,
18 shall be transferred to the ~~—~~ *California Veterans* Fund established
19 by subdivision (a).

20 SEC. 4. Article 11.3 (commencing with Section 18810) is
21 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and
22 Taxation Code, to read:

23
24 Article 11.3. ~~—~~ *California Veterans* Fund
25

26 18810. (a) An individual may designate on the tax return that
27 a contribution in excess of the tax liability, if any, be made to the
28 ~~—~~ *California Veterans* Fund established by Section 1051 of the
29 Military and Veterans Code. That designation is to be used as a
30 voluntary contribution on the tax return.

31 (b) The contributions shall be in full dollar amounts and may
32 be made individually by each signatory on a joint return.

33 (c) A designation shall be made for any taxable year on the
34 initial return for that taxable year and once made is irrevocable. If
35 payments and credits reported on the return, together with any
36 other credits associated with the taxpayer's account, do not exceed
37 the taxpayer's liability, the return shall be treated as though no
38 designation has been made. If no designee is specified, the
39 contribution shall be transferred to the General Fund after

1 reimbursement of the direct actual costs of the Franchise Tax Board
2 for the collection and administration of funds under this article.

3 (d) The Franchise Tax Board shall revise the form of the return
4 to include a space labeled the “~~—~~*California Veterans* Fund” to
5 allow for the designation permitted. The form shall also include
6 in the instructions information that the contribution may be in the
7 amount of one dollar (\$1) or more and that the contribution shall
8 be used for veterans’ homes operations.

9 (e) Notwithstanding any other law, a voluntary contribution
10 designation for the ~~—~~*California Veterans* Fund may not be
11 added on the tax return until another voluntary contribution
12 designation is removed.

13 (f) A deduction shall be allowed under Article 6 (commencing
14 with Section 17201) of Chapter 3 of Part 10 for any contribution
15 made pursuant to subdivision (a).

16 18811. The contributions made pursuant to Section 18810 shall
17 be transferred for deposit in the ~~—~~*California Veterans* Fund
18 established by Section 1051 of the Military and Veterans Code.

19 18812. The Franchise Tax Board shall notify the Controller of
20 both the amount of money paid by taxpayers in excess of their tax
21 liability, and the amount of refund money that taxpayers have
22 designated, pursuant to Section 18810 to be transferred to the ~~—~~
23 *California Veterans* Fund established by Section 1051 of the
24 Military and Veterans Code. The Controller shall transfer from
25 the Personal Income Tax Fund to the ~~—~~*California Veterans*
26 Fund an amount not in excess of the sum of the amounts designated
27 by individuals pursuant to Section 18810 for payment into that
28 fund.

29 18813. All moneys transferred to the ~~—~~*California Veterans*
30 Fund, upon appropriation by the Legislature, shall be allocated as
31 follows:

32 (a) To the Franchise Tax Board and the Controller for
33 reimbursement of all costs incurred by the Franchise Tax Board
34 and the Controller in connection with their duties under this article.

35 (b) To the Department of Veterans Affairs for allocation to the
36 administrators of veterans’ homes. Moneys allocated pursuant to
37 this subdivision shall be distributed proportionally to the Morale,
38 Welfare, and Recreation Fund of each veterans’ home pursuant to
39 Section 1047 of the Military and Veterans Code.

1 (c) Appropriations from the General Fund for the funding of
2 those purposes described in subdivision (b) may not be reduced
3 for the purpose of, or to have the effect of, requiring increased
4 expenditures from the ~~_____~~ *California Veterans* Fund for those
5 described purposes.

6 18814. It is the intent of the Legislature that this article create
7 an additional funding source for veterans' homes and shall be used
8 to supplement, not supplant, other funding sources for veterans'
9 homes.

10 18815. (a) This article shall remain in effect only until January
11 1 of the fifth taxable year following the first appearance of the ~~_____~~
12 *California Veterans* Fund on the tax return, and as of that date is
13 repealed, unless a later enacted statute, that is enacted before the
14 applicable date, deletes or extends that date.

15 (b) (1) By September 1 of the second calendar year, and by
16 September 1 of each subsequent calendar year that the ~~_____~~
17 *California Veterans* Fund appears on a tax return, the Franchise
18 Tax Board shall do all of the following:

19 (A) Determine the minimum contribution amount required to
20 be received during the next calendar year for the fund to appear
21 on the tax return for the taxable year that includes the next calendar
22 year.

23 (B) Provide written notification to the Department of Veterans
24 Affairs of the amount determined in subparagraph (A).

25 (C) Determine whether the amount of contributions estimated
26 to be received during the calendar year will equal or exceed the
27 minimum contribution amount determined by the Franchise Tax
28 Board for the calendar year pursuant to subparagraph (A). The
29 Franchise Tax Board shall estimate the amount of contributions
30 to be received by using the actual amounts received by the end of
31 that calendar year.

32 (2) If the Franchise Tax Board determines that the amount of
33 contributions estimated to be received during a calendar year will
34 not at least equal the minimum contribution amount for the calendar
35 year, this article is repealed with respect to taxable years beginning
36 on or after January 1 of that calendar year.

37 (3) For purposes of this section, the minimum contribution
38 amount for a calendar year means two hundred fifty thousand
39 dollars (\$250,000) for the second calendar year after the first
40 appearance of the ~~_____~~ *California Veterans* Fund on the personal

1 income tax return or the adjusted minimum contribution amount
2 adjusted pursuant to subdivision (c).

3 (c) For each calendar year, beginning with the third calendar
4 year that the ~~California Veterans~~ Fund appears on the tax
5 return, the Franchise Tax Board shall adjust, on or before
6 September 1 of that calendar year, the minimum estimated
7 contribution amount specified in subdivision (b) as follows:

8 (1) The minimum estimated contribution amount for the calendar
9 year shall be an amount equal to the product of the minimum
10 contribution amount for the prior September 1 multiplied by the
11 inflation factor adjustments as specified in paragraph (2) of
12 subdivision (h) of Section 17041, rounded off to the nearest dollar.

13 (2) The inflation factor adjustment used for the calendar year
14 shall be based on the figures for the percentage change in the
15 California Consumer Price Index received on or before August 1
16 of the calendar year pursuant to paragraph (1) of subdivision (h)
17 of Section 17041.

18 SEC. 5. Article 11.5 (commencing with Section 18825) of
19 Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation
20 Code is repealed.